ಶ್ರೀ ಎಂ. ಲಿಂಗಣ್ಣ (ನಂಜನಗೂಡು).—ಆಗಬಹುದು.

Mr. SPEAKER.—I will once again read the adjournment motion for the information of the House.

"This House do stand adjourned to discuss a definite matter of urgent public importance and of recent occurrence namely, the damage, loss and distress caused to the people on account of heavy floods of rivers Cauvery and Kapini from 6th to 8th instant."

The movers of this motion are Sri B. Rachiah and Sri U. M. Madappa. Under Rule 40, so far as I am concerned, I have no objection. The member may ask for leave of the House to introduce the adjournment motion.

Sri B. RACHAIAH (Yelandur—Scheduled Castes).—Sir, I beg leave of the House for the introduction of this adjournment motion :

"This House do stand adjourned to discuss a definite matter of urgent public importance and of recent occurrence namely, the damage, loss and distress caused to the people on account of heavy floods of rivers Cauvery and Kapini from 6th to 8th instant."

(The House gave its assent.)

Mr. SPEAKER.—The motion, therefore, shall be taken up at 4 P.M. to-day.

There are some other adjournment motions. They lapse as per rules.

ALLEGED DISQUALIFICATION OF SRI T. SIDDALINGAIYA.

Decision of the Rajpramukh and the opinion of the Election Commissioner.

Mr. SPEAKER.—Hon'ble Members will remember that on 2nd April 1953, I intimated to the House that I would be referring the question of disqualification of Sri T. Siddalingaiya raised by Sri B. V. Narayana Reddy to the Rajpramukh under article 192 of the Constitution. I referred this matter to the Rajpramukh and I have received the following decision of the Rajpramukh with the opinion of the Election Commissioner. They run as follows :—

THE PALACE,

BANGALORE.

Dated the 10th July 1953.

ORDER.

WHEREAS a question was raised in the Legislative Assembly of the State of Mysore whether Sri T. Siddalingaiya, a member of the said Assembly, has become disqualified from being a member of the said Assembly under clause (*d*) of section 7 of the Representation of the People Act, 1951, (Central Act No. XLIII of 1951) read with sub-clause (*e*) of clause (1) of article 191 of the Constitution ;

And whereas in pursuance of clause (1) of article 192, the question was referred by the Speaker of the said Assembly to the Rajpramukh for his decision ;

And whereas in pursuance of clause (2) of the said article, the Rajpramukh has obtained thereon the opinion of the Election Commission (appended herewith) ;

Now therefore in exercise of the powers conferred on him by clause (1) of article 192 of the Constitution and acting according to the opinion of the Election Commission, the Rajpramukh hereby decides that Sri T. Siddalingaiya, a member of the Legislative Assembly of the State of Mysore, has not become subject to the disqualification mentioned in clause (*b*) of section 7 of the Representation of the People Act, 1951, read with sub-clause (*e*) of clause (1) of article 191 of the Constitution.

(Sd.) JAYA CHAMARAJA WADIYAR,
Rajpramukh of Mysore.

ELECTION COMMISSION, INDIA.

OPINION.

Shri B. V. Narayana Reddy, a member of the Mysore Legislative Assembly, wrote on the 30th March 1953, to the Speaker that Shri T. Siddalingaiya, another member of that Assembly, had become disqualified for being such a member under article 191 (1) (*e*) of the Constitution read with section 7 (*d*) of the Representation of the People Act, 1951, Shri Narayana Reddy stated in the letter that the disqualification arose " from the fact that Shri Siddalingaiya had a share and an interest in the contract of the transportation of copper wire placed with the firm known as Messrs. Shankara & Co., of which the undivided Hindu family of Shri T. Siddalingaiya is a partner in business ".

2. Shri T. Siddalingaiya denying in the House that he was subject to any disqualification, the Speaker called upon Sri Narayana Reddy to amplify his allegation, which he did orally on the 2nd April. In his oral statement, Shri Narayana Reddy asserted that from the information in his possession he would be able to show that Shri Siddalingaiya's undivided brother was a partner in Sri Shankara & Co., that this brother had filed a solvency and income-tax verification certificate to secure the contract, and that while one Chowdayya was a working partner having a two-anna share in the profits, Shri Siddalingaiya's family held the major share in Sri Shankara & Co. There was a categorical denial by Shri Siddalingaiya of all these allegations. The Speaker, finding it difficult to say on a *prima facie* examination of these statements that the question of disqualification did not arise, decided to refer it to the Rajpramukh as required by clause (1) of article 192 of the Constitution; and, as required by clause (2) of that article, the Rajpramukh has asked for the opinion of the Election Commission.

3. It is obviously impossible to give a considered opinion merely on the statements made in the House, since the allegations of fact are not admitted by the members concerned. Neither the Constitution or the Representation of the People Act prescribes the procedure to be followed by the Election Commission in a case of this nature. While the Commission has been charged with the responsibility of furnishing a practically decisive opinion on the question of disqualification, it has not been vested with the necessary powers to hold an enquiry in a satisfactory manner. The allegations made are of serious consequence both to the members concerned and to the public; and, before giving a considered opinion on the question of disqualification, it is obviously necessary to hold a quasi-judicial enquiry. The power to summon witnesses, examine them on oath and call for documents, whether in the possession of the Government or of private persons, would seem to be essential, but, unfortunately, the law has not vested that power in the Commission or any other authority. In these circumstances, the Commission had to content itself with sending letters of request for the production of documents which appeared to be relevant to the enquiry, and to examine such witnesses as were brought forward by the member.

4. That the State Government had given a contract to the firm known as Sri Shankara & Co., about the end of October 1952, is not in dispute. The nature of that contract is, however, not correctly described by Shri Narayana Reddy in his letter to the Speaker. At my request, the State Government have sent all the relevant files relating to the contract, and also furnished certified copies of the letters (Exhibits 1 to 4) which constitute the contract. On October 24, one B. Chowdappa, signing himself as a partner of Sri Shankara & Co., wrote to the Secretary to Government in the Public Works

and Electrical Department offering to transport from Kirkee to Bangalore the copper wire held by the Government at the former place. A copy of this letter was also endorsed by the firm to the Minister for Industries who at that time was Shri Siddalingaiya. The letter was not a regular tender. No specific rates were quoted, but it stated that the firm was " prepared to take up the transportation at any reasonable lower quotatoin than the lowest so far received by Government ". By a letter dated 25th October the State Government asked the Chief Electrical Engineer to accept the " quotation " (sic) of the firm for transporting the copper wire to Bangalore. Presumably after realising that there was, in fact, no " quotation " in the firm's letter, the State Government ordered, by a supplementary letter dated October 28, that the work should be entrusted to the firm at the rate of 5 annas per lb. of copper wire transported.

5. In accordance with these orders of Government, the Chief Electrical Engineer gave the contract to the firm, putting down in writing its terms and conditions in a letter dated October 29 (Exhibit 4). The contract was to take delivery, pack and transport 176 tons 12 cwts. 3 qrs. 19 lbs. of copper wire from Dehu road Military Depot to Bangalore at the rate of 5 annas per lb. The " works " to be done by the firm were listed as follows :—

(1) Manufacture and supply at the depot sufficient number of new strong wooden reels each capable of taking a coil of 0.2 square inch copper conductor about 2 tons in weight with necessary packing materials.

(2) Providing the necessary cranes and other heavy hand ling equipment.

(3) Engaging the necessary labour skilled and unskilled with superintendence for handling and winding all copper wires.

(4) Taking delivery of the copper conductors in detail from the Commanding Officer, Dehu Road Depot and winding and packing the same in Wooden drums.

(5) Loading the same on the wagons as and when made available by the Railway authorities at request by the Depot authorities and ourselves and booking the same to the address of our Controller of Stores, C.P.S. Central Stores, Bangalore.

6. The first question that arises for consideration is whether the contract is of the nature mentioned in clause (d) of section 7 of the Representation of the People Act, 1951. Is it a contract for the supply of goods to the State Government *or* for the execution of any works undertaken by the State Government *or* for the performance of any services undertaken by the State Government ? The copper wire was the property of the State Government, having been acquired by it from the Government of India for its Public Works and Electrical Department. It appears that the wooden reels on which the copper wire was originally wound and kept had become damaged and unserviceable, and before it could be conveniently transported from Dehu Road to Bombay new wooden reels had to be manufactured and the copper wire re-wound on them. The first item of work is accordingly put down in the Chief Electrical Engineer's letter as manufacture and supply at the Depot of a sufficient number of strong wooden reels. The reels so supplied for the transport of the wire become the property of the Government and there is no doubt that the contract consists partly in the supply of goods to the Government. The rest of the contract consists in winding the wire on the reels, packing them in wooden drums, transporting them from the

military depot to the railway station, loading them into wagons as and when made available by the railway authorities and booking the wagons to the specified address at Bangalore. The contract is thus partly for certain specified items of work to be done by the contractor and partly for the supply of certain specified goods, *viz.*, about 100 wooden reels and an equal number of wooden drums and other packing materials. The value of the latter is no doubt only a small part of the total value of the contract, but by no means negligible. The supply of the wooden reels is clearly an essential part of the contract.

7. It was urged by Counsel for Shri Narayana Reddy that the contract is a contract for the supply of goods and, in so far as winding, packing, transporting and other work is concerned, also a contract for the execution of certain works undertaken by Government. He also suggested that since the State Government have undertaken the supply of electrical energy to the public and the wire was intended for use in that connection, the contract was also capable of being regarded as one for the performance of services undertaken by the Government.

8. We may dispose of the last point first. The transport of copper wire from Dehu Road to Bangalore is no doubt ancillary to, and for a purpose connected with, the performance of the electric supply service undertaken by the State Government, but, in order to bring a contract within the last part of clause (d) of section 7 of the Act, it must be directly *for* the performance of the service itself. The contractor must have been engaged by the Government to perform the particular service undertaken by the State Government. We would not be justified in construing the expression "for the performance of any services" as meaning for the performance of some work connected, however remotely, with any such service,

9. The second point turns on the interpretation of the words "any works undertaken by the Government", and in particular on the significance to be attached to the plural "works". In common parlance, one refers to a Government undertaking building works, irrigation works, defence works, etc., in all of which some type of architectural or engineering structure is the common feature. The legislature appears to have deliberately used the plural "any works" instead of the grammatically more appropriate singular "any work" in order to give a more restricted meaning to the phrase. "Any work" would naturally include any task or job or other form of activity which the Government might undertake, and a very wide category of contracts would be covered by the expression "contracts for the execution of any *work* undertaken by the Government". In the context, the word "works" connotes something to be built or constructed and not merely something to be done. While the winding of copper wire on wooden reels and their transportation from one place to another is of course a piece of work, a contract for doing that work cannot, in my opinion, fall within the category of contracts for the execution of *works* undertaken by the Government.

10. On the question whether the contract is a contract for the supply of goods to the Government, it is urged on behalf of Sri Siddalingaiya that the contract is mainly for winding, packing and transporting the copper wire, and since the supply of wooden reels, etc., is purely incidental and subsidiary, the contract as a whole ought to be regarded as one for and labour, and not for the supply of sale of goods. Reliance is placed on the English authorities which distinguish between these two classes of contracts and which are cited and discussed in Pollock & Mulla's Indian Sale of Goods Act, Second Edition, at page 25. For instance, in Robinson *vs.* Graves (1935) 1 K.B 579, A

promised to paint a picture for B, A finding the paint and the canvas which were of small value and B promising to pay for the picture as a work of art. It was held that this was a contract for work and labour, and not for the sale of goods. It is argued on this analogy that the contract with Sri Shankara & Co., was for the performance of a specific piece of work, although for the purpose of doing it, it was necessary to supply the specified goods.

11. The analogy is, in my opinion, imperfect. As noted above in paragraph 6, the supply of wooden reels and drums is an essential and distinct part of the contract, and consequently mentioned as the first item in the terms of the contract. The value of the goods is by no means negligible as in the case of the canvas and painting used for the production of a portrait. The learned authors cited above comment that "the test would seem to be whether the thing to be delivered (under the contract) has any individual existence before delivery as the sole property of the party who is to deliver it". There could be no doubt that the wooden reels and drums supplied by the firm in pursuance of the contract were its sole property and had separate existence before delivery, and accordingly so far as this part of the contract is concerned, it *is* for the supply of goods.

12. The contract with Sri Shankara & Co., is, in my opinion, a composite contract, being partly for the supply of goods and partly for the performance of a specific piece of work, and as such, it does fall within the scope of clause (d) of section 7. This provision does not require that the contract should be *solely* for the supply of goods.

13. Next we have to consider if Shri Siddalingaiya has any share or interest in this contract, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account.

14. It is admitted that Shri Siddalingaiya is a member of a Hindu undivided family, the other members being his brothers, Siddabasappa and Chinna Siddalingaiya and the male issues of the two Sidddlingaiya's and of their deceased brother, Siddappa : *vide* para 4 of his written statement of 7th May 1953. It is also admitted that the joint-family carries on business in groceries and weaving, Chinna Siddalingaiya looking after the former and Siddabasappa the latter.

15. The allegation in Shri Narayana Reddy's letter to the Speaker was that the joint family was a partner of the firm, Sri Shankara & Co. This was subsequently amplified or modified to the effect that Siddabasappa was a partner of the firm, but the partnership was for and on behalf of the family. Siddabasappa has all along been the actual manager of the business enterprises of the joint family, and in this particular concern also, he was acting on behalf of the family and not treating it as his separate business. These allegations are denied by Shri Siddalingaiya.

16. From the evidence adduced before me, it appears the partnership of Sri Shankara & Co., was formed for the first time on the 1st May 1952, the partners being Siddabasappa, Shankariah and Chowdappa (Exhibit 11). Siddabasappa was to finance the business, and the other two partners were to look after the daily dealings and trade and to keep accounts. Siddabasappa was to have an eight-anna share in the profits and losses of the business, while the other two were to have a four-anna share each. As the financing partner, Siddabasappa was given full power to wind up the partnership. An agreement to this effect was recorded on the first page of the daily account book of the firm and duly signed by all the three partners. It may be mentioned here that Shankariah is an illegitimate son of Siddappa, the deceased brother of Siddabasappa, and is therefore *not* a member of the joint family. Chowdappa was for several years immediately prior to the partnership in the

employ of the joint family receiving a monthly salary of Rs. 85, but apart from this connection, he is of course an outsider.

17. The firm transacted business in textiles for a period of five and a half months. Considerable stocks were bought with money supplied from time to time by Siddabasappa, and a small proportion was also sold. All the capital amounting to Rs. 52,250 had been furnished by Siddabasappa. It is said that on 15-10 1952 the accounts of the firm were examined at his instance, and they disclosed a net loss of nearly Rs. 3,500. As the market for textiles was uncertain, Siddabasappa insisted on dissolving the partnership, and this was agreed to by the other two partners. Although the agreement of 1st May provided for one half of the loss being borne by Siddabasappa, Shankariah and Chowdappa agreed to bear the entire losses themselves on the curious ground that all the business dealings of the firm were in their hands. They returned Rs. 4,250 in cash to Siddabasappa and gave him three promissory notes for the balance of Rs. 48,000 each one of these being also executed by a third party as surety. They took over all the assets of the firm, including stocks valued at Rs. 36,125 and a debt of Rs. 6,283 due from one Jayashankar. Thereafter Shankariah and Chowdappa were to trade in the name of Sri Shankara & Co., by themselves, and Siddabasappa did not have any concern in it. This agreement was recorded in detail in the account book of the firm on the 15th October and duly signed by all the three partners (Exhibit 12).

18. Apart from the account books and the three promissory notes that were produced in original (Exhibits 13, 14 and 15), the main corroborating evidence is that of M. G. Bhat, an accountant of the Canara Banking Corporation Ltd., Bangalore. The firm, Sri Shankara & Co., opened a current account with the bank on July 23 with a deposit of Rs. 250. On October 16, a letter signed by all the three partners and dated October 15, was received by the Bank intimating that all the assets of the firm had been purchased by Chowdappa and Shankariah from Siddabasappa for Rs. 48,761-14-9 and that the latter ceased to be a partner from October 15 (Exhibit 9). The Bank instructed the firm in the usual course to close this account and open a new one, at the same time made a note in the current account ledger (Exhibit 8) that " T. Siddabasappa ceased to be a partner from 15-10-1952 as per their letter dated 16-10-1952 ". The account, however, was closed only on January 8, by payment of the balance of Rs. 249 to Chowdappa. On the same date another account in the name of Sri Shankara & Co., was opened on the application of the two partners of the firm, *viz.*, Shankariah and Chowdappa with a deposit of Rs. 249. Between July 23 and January 8, the current account was not operated at all, but there were several transactions in February (Exhibit 19).

19. According to Chowdappa, when the current account was opened by the firm in July, they had an intention of exporting textiles to places outside Mysore State, and probably outside India, after obtaining the necessary licenses. It was in order to facilitate these contemplated export transactions that the current account was opened. Actually, however, the firm did not do any export trade at all as there was a downward trend in prices and the market fell two or three months later. There was, therefore, no occasion to operate on the bank account, the local business of the firm being all done on a cash basis.

20. It will be recalled that Chowdappa applied to the Government for the contract on October 24 and got it remarkably quickly on October 29. The firm had been in existence for less than six months and had no previous experience of this type of work

or, indeed, of any type of contract work. Chowdappa states that the idea of taking on this particular work occurred to him two or three days before writing to Government. He had heard about it from the Chief Electrical Engineer whom he used to see occasionally in connection with electric power for his power-looms in Dodballapur. The Government authorities did not make any inquiries from him as to who the partners of Sri Shankara & Co., were, nor did Chowdappa volunteer the information himself. The firm was not asked to make any deposit or arrange other security for the due performance of the contract.

21. Chowdappa then states that soon after securing the contract he gave it out on a sub-contract to a Bombay firm known as New Punjab Works on November 5 for Rs. 1,10,000. This firm was to do all the work undertaken by Sri Shankara & Co. Exhibits 16 and 17 as well as the account books of the firm have been produced to prove this sub-contract. Payments were made to the sub-contractor from time to time in November and December as the work was progressing, and for this purpose Chowdappa raised a loan of Rs. 20,000 from an uncle of his who is a business man in Bombay, and another loan of Rs. 50,000 from one Sunderlal through his uncle's recommendation. At the same time, he was selling the textile stocks of the firm and realising the debts due to it, from which he got Rs. 42,000. Upon receiving Rs. 98,000 from the Government on February 5, he immediately paid back the loan of Rs. 48,000 to Siddabasappa and the loan of Rs. 50,000 to Sunderlal.

22. Returning next to the evidence given by Shri Siddalingaiya it is not as clear-cut and precise as one would expect or desire. Material parts of it are vague and, to some extent, difficult to reconcile and understand. A meeting of the Legislature Congress Party had been called for December 25, to consider various matters, including alleged defects in the working of the Electric Supply Department of which Shri Siddalingaiya was then the Minister-in-charge. At this meeting, the granting of the copper wire contract to Sri Shankara & Co., and the rates at which that contract was given were subjects of apparently acrimonious discussion. One of the members of the Party, Shri Nagaiah Reddy, has written to the Chief Minister on November 21, in the following terms (Exhibit 5):

> "Secondly, I have another information that the Minister concerned seems to have placed orders for transportation of copper wire from Dehoo Depot, Poona at the rate of Annas Five per pound while there is a tender for three annas per pound by Messrs. Volley and Co., Bombay. Messrs. Shankar & Co., is the company whose tender has been accepted by the Minister—the properietor of which is the brother of the concerned Minister. The agreement is executed on behalf of the firm by one Chowdappa as representative of the firm....".

Shri Siddalingaiya denies that he had any knowledge of this letter or that the Chief Minister ever showed or mentioned its contents to him before the meeting, which seems extraordinary. Writing on January 14 to the Chief Minister, Shri Siddalingaiya states:

> ". . It is true that I said *inter alia* that my brother was a partner in the said firm. I volunteered this statement of my own accord as I had a vague feeling at time that my brother and Sri Chowdappa were in business association since I had seen them work together in business sometime back. This statement created an uproar against me from my brothers, when they read it as reported in the Press. I made

enquiries subsequently and have come to know that my brother had severed his connection sometime before the contract....".

23. The evidence given by Shri Siddalingaiya in person does not help us to understand how exactly he came to make this erroneous statement at the party meeting. He knew only that the contract was being given to Shankara & Co. of Dodballapur, but had no idea as to who the partners were or whether his brother or Chowdappa had anything to do with it. He says he might have seen a copy of the letter of October 24 from Sri Shankara & Co., signed by Chowdappa as partner; it might have been put up to him by the Secretary; but he could not be definite. The Secretary recommended that the contract be given to this firm, and he approved of it. He was not able to say when he first came to know that Chowdappa had anything to do with the firm. He came to know definitely about the firm after the party meeting; before that, he had only a "hazy feeling" about which he spoke at the meeting. This is attributed to the fact known to him that his brother and Chowdappa were doing business together and moving together! After carefully considering his evidence as a whole, and making full allowance for the fact that he paid little attention to the business affairs of his family, being engrossed in his political and ministerial work, I find it impossible to believe that on October 24, when he approved of the contract being given to the firm, he had no knowledge that his brother and Chowdappa were connected with it in some way or other, or that he got this "hazy feeling" about his brother being a partner only several weeks afterwards.

24. It is suggested by Counsel for Shri Narayana Reddy that the firm as originally constituted was not a genuine and independent partnership but, in reality, a joint family concern carrying on business in another name. Shankariah, an illegitimate son of Siddabasappa's brother, and Chowdappa, an ex-employee obliged in several ways to Siddabasappa, were put in as dummy partners merely for the sake of appearances. I do not agree with this view. There is nothing strange or incredible in Siddabasappa agreeing to finance these two persons who are closely connected with him and embark them on a new enterprise, from which he might also possibly derive profit for himself. The partnership agreement of 1st May, 1952, is in my opinion a genuine affair. I also see no reason to disbelieve the genuineness of the bank account opened by the firm on July 23.

25. As regards the alleged dissolution of Partnership on October 15, a bare fortnight before the reconstituted firm obtained the Government contract, it is strongly urged that it is a fixed transaction merely to get over the awkwardness of Shri Siddalingaiya's undivided brother being a partner of the firm when it got that contract. From the evidence on record it does not appear that the firm or any of its partners had any intention of going in for this contract work on October 15. Chowdappa has stated that he came to know of this work in the course of a casual talk with the Chief Electrical Engineer only two or three days before writing the letter of October 24 to the Government. However that may be, there appears to have been good reason for Siddabasappa deciding on October 15 that, since the firm of which he was the sole financing partner was working at a loss, the partnership should be dissolved. Trade prospects were not bright, and the market value of the stocks in hand was lower than their cost price by a few thousand rupees. The fact that he kept all the stocks with Shankariah and Chowdappa was adversely commented upon by Counsel, but I see nothing strange in this. After all, the stocks had to be sold before he could get back his money. Since Shankariah and Chowdappa were prepared to do this in due course

and meanwhile give promissory notes executed jointly by third parties as sureties for the amount involved, the arrangement was not disadvantageous from Siddabasappa's point of view. The detailed evidence adduced in this respect cannot be brushed aside as subsequently concocted, especially in view of the letter of October 15 to the Canara Banking Corporation which has been produced by the Accountant of the Bank. The genuineness of this letter is hardly open to challenge, and has not been seriously questioned. In my view, therefore, whatever may be Siddabasappa's motives in breaking up the partnership at that particular juncture, it is proved to have been broken up on October 15, and thereafter the firm was the concern only of Shankariah and Chowdappa. Instead of being the sole financing partner of the firm with a half share in its profits and losses, Siddabasappa became a simple creditor of the firm to the extent of Rs. 48,000 and withdrew from the partnership.

26. It is urged that since public notice was not given of the disruption of the partnership, it did not become effective so far as the Government was concerned. Reference was made to section 45 of the Indian Partnership Act, 1932, but I do not see how it helps to prove this conclusion. This section provides that if public notice is not given of the dissolution, the partners continue to be liable to third parties for any act done by any of them which would have been an act of the firm if done before the dissolution. The proviso to sub-section (1), however, lays down that the estate of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm is not liable for acts done after the date on which he ceases to be a partner. The Government apparently did not enquire who the partners of Sri Shankara & Co. were either before or after giving the contract to that firm, nor is there anything to indicate that the Government must have been aware of Siddabasappa having been a partner of the firm as originally constituted or that they gave the contract to the firm because of that fact. All the transactions with the Government and the Chief Electrical Engineer in connection with the contract were being carried on by Chowdappa as a partner of the firm, and it was he who "delivered the goods" to the Government. The fact that none of the original partners gave public notice of the dissolution of their partnership does not, in my opinion, affect its validity or effect so far as the present inquiry is concerned.

27. Finally, we come to the question whether Shri Siddalingaiya has any interest in the contract between the Government and Sri Shankara & Co. It is clear that he has no share in the contract nor a direct interest in it, but we have to consider whether he has an indirect interest in the contract by reason of Siddabasappa's proved connection with the firm. It is established that Siddabasappa had to recover Rs. 48,000 from the firm for which, on October 1952, the firm's assets were inadequate, but he had the guarantee of the three other signatories of the promissory notes given to him. It is more than likely that he knew of the contract work undertaken by the firm, and of the sale proceeds of the cloth stocks being utilised for the performance of that contract through the Bombay sub-contractor. It is also a fact that as soon as Chowdappa recovered the money from the State Government, he paid off the amount due to Siddabasappa. While these facts go to show that Siddabasappa, as a creditor of the firm, had a substantial interest in its solvency and financial advancement, they are in my opinion, insufficient to establish that he had an interest in the contract itself within the meaning of section 7(d) of the Representation of the People Act, 1951.

28. Counsel for Shri Narayana Reddy, urging the contrary view, relied on England *vs.* Inglis (1920) 2 K.B. 636. This was a case under

section 12(1) of the Municipal Corporations Act, 1882, the wording of which is very similar to that of the section we are considering. It provides that a person shall be disqualified for being a municipal councillor if he has directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of the council. A contract was given by a municipal council to the son of a councillor for the supply of spectacles to school-children. The son alone derived pecuniary benefit from the contract, but the shop in which the spectacles were made was provided, and the establishment expenses were paid, by the councillor; and the fact that the spectacle cases bore his address helped to advertise his business with the consequent probability of increasing his custom. It was held that an interest in a contract must be a pecuniary or at least a material interest, and that, on the facts of the case, the councillor had such an interest in the particular contract. A clear and direct connection was established between the business interests of the councillor and the contract itself, and the manner of its performance by his son. Such is not the position in Siddabasappa's case. He had no direct interest in the performance of the contract or in the profits which the firm may get on account of the contract. In fact, it appears from Chowdappa's evidence that even up to the date of this inquiry, the firm made no profit at all out of the contract. It had to pay Rs. 1,10,000 to the sub-contractor, whereas it received only Rs. 98,000 from the Government. This fact apart, it is clear that in reality Siddabasappa has got back his amount from the sale proceeds of his stocks left with the firm on October 15, the amount recovered by the firm from its debtors, and the loan raised by the firm from Chowdappa's uncle. Every creditor of a firm which enters into a contract cannot be said to have an interest in the contract. Siddabasappa was only an ordinary creditor of the firm, and the antecedent debt due to him by the firm had no connection with the contract. He had in my opinion, no such interest in the contract as would bring him within the mischief of section 7 (d); and *a fortiori* Sri Siddalingaiya could have no such interest.

29. In this view of the matter, it is not necessary to consider whether the amounts advanced by Siddabasappa between May and October, 1952, to the firm came from the joint family funds or whether the sum of Rs. 48,000, when repaid by the firm in February, 1953, was put back by him into those funds. On this point Siddabasappa would have been the best witness, but he did not come forward to give evidence, nor were the account books of the joint family produced by or on behalf of Shri Siddalingaiya. We have merely his statement that Siddabasappa has plenty of money of his own; and, although Shri Siddalingaiya has no definite knowledge nor seen the account books recently, his impression is that Siddabasappa's monetary transactions with Sri Shankara & Co. were on his own, and not on behalf of the joint family funds. I cannot, of course, accept this as evidence. From the statement of accounts of Messrs. T. C. Siddalingaiya & Bros. with the Canara Banking Corporation for the half year, July to December 1952, (Exhibit 20), it appears that several large sums were paid by cheques to Chowdappa—Rs. 11,600 in July, Rs 1,600 in August, Rs. 21,773-4-0 in September and Rs. 3,500 in December. These payments, however, do not correspond to any extent with the cash advances given by Siddabasappa to Sri Shankara & Co. and shown in the accounts of that firm. Chowdappa explains that the sums drawn by him from the bank on T. C. Siddalingaiya & Bros. account were for purchasing yarn and other materials for their own weaving factory, and had nothing to do with the business of Sri Shankara & Co. The evidence on

record is thus quite insufficient to establish the source from which Siddabasappa was financing Sri Shankara & Co. between May and October, 1952; but, as I have stated before, this is not material.

30. To summarise, my opinion is—

(1) that the contract given by the State Government to the firm Sri Shankara & Co. on the 29th October, 1952, is a contract for the supply of goods and, consequently falls within the scope of section 7(d) of the Representation of the People Act, 1951:

(2) that Siddabasappa ceased to be a partner of the firm on the 15th October, 1952, and thereafter was only a creditor of the remaining partners of the firm;

(3) that, as such creditor, Siddabasappa cannot be said to have had a share or interest in the contract within the meaning of the said section 7(d); and

(4) that, accordingly, Shri T. Siddalingaiya is not disqualified to be a member of the Mysore Legislative Assembly.

(Sd.) K. V. K. Sundaram,
Chief Election Commissioner,
3rd July 1953.

Sri J. MOHAMED IMAM (Jagalur).—Can the copies of these be made available?

Mr. SPEAKER.—The Hon'ble Leader of the Opposition knows well that these proceedings will be printed.

Sri J. MOHAMED IMAM.—At least, can one or two copies be made available for the Leader of the House and for the Leader of the Opposition?

Mr. SPEAKER.—They will be made available as early as possible.

Mr. SPEAKER.—Papers to be laid on the Table of the House.

Sri J. MOHAMED IMAM.—I have got one submission to make. A few questions were left out and answers were not provided during the last session. I request that preference may be given to those questions. I think that about fifty questions still remain unanswered.

Mr. SPEAKER.—You please see the first list of questions tabled for today. About 51 questions were left unanswered during the last session. Many of them have been printed in today's list.

Sri J. MOHAMED IMAM.—There are many important questions among them.

Mr. SPEAKER.—I hope the Government will see that all those questions will be given preference in furnishing answers.

PAPERS LAID ON THE TABLE.

Sri A. G. RAMACHANDRA RAO (Minister for Law and Education) [on behalf of Sri H. SIDDAVEERAPPA (Minister for Home and Industries)].—Sir, as required by the second proviso to section 24 of the Mysore State Aid to Industries Act, 1951, I lay on the Table of the House a copy of Notification No. I. 4075—Ind. 153-52-4, dated 11th March 1953, which has been published in the *Mysore Gazette* dated 23rd April 1953.

PRESENTATION OF REPORTS.

Sri A. G. RAMACHANDRA RAO (Minister for Law and Education).—Sir, I beg to present the report of the Select Committee on the Mysore Village Offices (Amendment) Bill, 1953.

Sri R. CHENNIGARAMIAH (Koratagere-Madhugiri — Scheduled Castes—Deputy Speaker).—Sir, I beg to present the report of the Special Committee on the Rules of Procedure and Conduct of Business in the Mysore Legislative Assembly.

INTRODUCTION OF BILLS.

Sri T. CHANNIAH (Minister for Public Health and Local Self-Government).—Sir, I beg to introduce the